

Remarks and Arguments

Claims 25-32, 41-48 and 57-61 were pending prior to this amendment. Claim 41 has been amended. No claims have been cancelled.

On February 22, 2005 and March 1, 2005, Applicant's prior attorney filed Information Disclosure Statements which included the International Search Report and references cited therein from the corresponding PCT application PCT/US2004/022213. Later, on January 19, 2006, the undersigned attorney filed an Information Disclosure Statement with the International Search Report and references from the corresponding PCT case and two other PCT cases. Included with these prior submissions were the following two references, each entitled "MultiLayer Hose," along with English language abstracts and complete translations thereof:

- Veritas FR2752452
- Veritas EP1188552

Copies are enclosed for the convenience of the Examiner.

Subsequent to receiving the Notice of Allowance mailed December 19, 2007, and in the course of prosecuting the corresponding European Application 0477965.7, the Veritas '452 reference was reviewed for the purpose of responding to an official communication of the European Patent Office. At that time, Applicant's attorney reviewed the allowed U.S. claims and determined that Applicant desired to amend claim 41, as set forth herein. Thus, rather than paying the issue fee, Applicant submits an RCE with an amendment to claim 41 for the Examiner's consideration.

Claim 41 has been amended so as to be directed to an article which is (a) a preform for blow molding a plastic container having a multilayer wall, or (b) a blow-molded plastic container having a multilayer wall. Neither of these articles is disclosed in Veritas '452. Veritas '452 exclusively discloses a hose.

Claim 41 further recites the blending of an adhesion-promoting material including an amine polymer with a barrier resin, the blend being used to form one or more layers with alternating layers of an ester-containing matrix resin.

A person skilled in the art of making expanded (blow-molded) plastic containers from preforms, in particular those made of an ester-containing resin such as polyester (e.g., PET), when faced with the problem of resisting delamination between or among

the various layers during filling and handling of the polyester container (e.g., for carbonated soft drinks or beer), would not look to Veritas '452 to solve that problem. Not only are fuel hoses outside his technical field, but also they are manufactured using co-extrusion techniques that do not involve blow molding to form an expanded (generally biaxially-oriented) article therefrom. Without hindsight knowledge of the invention recited in claim 41, the skilled person would not think that Veritas '452 could solve the problem, because he would not know that any technical information, either process or material based, disclosed in Veritas '452 for making co-extruded hoses would be useful, with a reasonable expectation of success, in the completely different techniques employed for manufacturing expanded preform containers.

The invention recited in claim 41 can provide one or more of the following advantages, none of which is predictable from Veritas '452:

1. By blending the amine polymer with barrier resin layer, a reduced amount of the amine polymer can be used to achieve the necessary adhesion promotion in a container (see page 7 lines 6 to 9 of the specification). Veritas '452 is silent as to any amount of polyethylene imine to be employed, and requires the polyethylene amine polymer to treat or be mixed with the matrix layer (see e.g., claim 1 of Veritas '452).

2) By blending the amine polymer with barrier resin layer, when used in a container for carbonated beverages (for example), the amine polymer surprisingly can provide the barrier layer with an enhanced CO₂ barrier effect in addition to the adhesion-promoting function. This surprising technical effect is disclosed at page 12 line 5 et seq, and in Table 1. Veritas '452 is absolutely silent on any such effect, because essentially it is merely concerned with fuel hoses and preventing fuel from contacting a polyamide structural layer of the fuel hose.

3) In polyester containers a barrier layer is usually present as a thin interlayer sandwiched between thicker adjacent matrix layers. By blending the amine polymer with barrier resin layer, an adhesion promotion effect for a three layer sandwich can be achieved by using the amine polymer in a single barrier resin interlayer. There is no need, as in Veritas '452, to employ the amine polymer, in the matrix layers.

These three surprising advantages and technical effects support the non-obvious subject matter of claim 41.

Furthermore, Veritas '452 does not constitute an enabling disclosure of polyethylene imine in combination with a polyester layer, such as PET or PBT. It is true that PET and PBT are disclosed in claim 3 of Veritas '452, and also at page 3 lines 26 to 31, but they are only disclosed as members of a longer list of polymers, some of which are not polyesters. There is no example of a polyester, only polyamide. There is no disclosure of any specific polyester compositions or blends, or manufacturing processes. The skilled person is not directed by Veritas '452 into using a PET or PBT resin, and certainly not in combination with a barrier layer which itself (rather than the PET or PBT resin) incorporates an amine polymer as an adhesion promoter.

For all of these reasons, it is submitted that amended claim 41 is not obvious over the state of the art, and thereby meets the provisions of 35 U.S.C. §103.

RECONSIDERATION

It is believed that all claims of the present application are now in condition for allowance.

Reconsideration of this application is respectfully requested. If the Examiner believes that a teleconference would expedite prosecution of the present application the Examiner is invited to call the Applicant's undersigned attorney at the Examiner's earliest convenience.

Any amendments or cancellation or submissions with respect to the claims herein is made without prejudice and is not an admission that said canceled or amended or otherwise affected subject matter is not patentable. Applicant reserves the right to pursue canceled or amended subject matter in one or more continuation, divisional or continuation-in-part applications.

To the extent that Applicant has not addressed one or more assertions of the Examiner because the foregoing response is sufficient, this is not an admission by Applicant as to the accuracy of such assertions.

Please grant any extensions of time required to enter this response and charge any fees in addition to fees submitted herewith that may be required to enter/allow this response and any accompanying papers to our deposit account 02-3038 and credit any overpayments thereto.

Respectfully submitted

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